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08 CIV 5719

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X Index No.  
UNIMET METAL SUPPLY, INC,

Plaintiff,

- against -

M/V EURUS OSLO, her engines, tackle,  
boiler, etc., *in rem*, and EVERGREEN LINE,  
*in personam*

**COMPLAINT**

Defendants.  
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The plaintiff herein, by its attorneys, Hill Rivkins & Hayden LLP, complaining of  
the above named vessel and defendants, alleges upon information and belief:

**FIRST:** This Court has jurisdiction pursuant to 28 U.S.C. 1331(a) in that  
this is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal  
Rules of Civil Procedure.

**SECOND:** At and during all the times hereinafter mentioned, plaintiff had and  
now has the legal status and principal office and place of business stated in Schedule A  
hereto annexed and by this reference made a part hereof.

**THIRD:** At and during all times hereinafter mentioned, defendants had and

now have the legal status and offices and places of business stated in Schedule A, and were now are engaged in business as common carriers of merchandise by water for hire, and owned, operated, managed, chartered, and controlled the above named vessel which now is or will be within the jurisdiction of this Court during the pendency of this action.

**FOURTH:** On or about the date and at the port of shipment stated in Schedule A, there was delivered to the vessel and defendants in good order and condition the shipment described in Schedule A, which the said vessel and defendants received, accepted and agreed to transport for certain consideration to the port of destination stated in Schedule A.

**FIFTH:** Thereafter, the said cargo failed to arrive at the port of destination described in Schedule A, and the cargo was therefore not delivered in the same good order and condition in which it was received.

**SIXTH:** Defendants, by reason of the premises, breached their duties to the plaintiff as common carriers by water for hire and were otherwise at fault in violation of The Hamburg Rules in effect in the port of shipment, Valparaiso, Chile and as required by the pertinent bill of lading.

**SEVENTH:** Plaintiff was the shipper, consignee or owner or otherwise had a proprietary interest of and in the cargo as described in Schedule A, and brings this action on its own behalf and, as agent and trustee, on behalf of and for the interest of all parties

who may be or become interested in the said shipment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

**EIGHTH:** Plaintiff has performed all duties and obligations on its part to be performed.

**NINTH:** By reason of the premises, plaintiff has sustained damages as nearly as same can now be estimated, no part of which has been paid, although duly demanded, in the amount of \$35,000.00.

**W H E R E F O R E**, plaintiff prays:

1. That process in due form of law according to the practice of this Court may issue against the defendants.
2. That if the defendants cannot be found within this District, that all of their property within this District be attached in the sum set forth in this complaint, with interest and costs.
3. That a decree be entered in favor of plaintiff against defendants and the vessel for the amount of plaintiff's damages, together with interest and costs.
4. That process in due form of law according to the practice of this Court

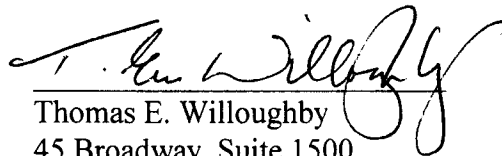
may issue against the aforesaid named vessel.

5. Plaintiff further prays for such other, further and different relief as to this Court may seem just and proper in the premises.

Dated: New York, New York  
June 25, 2008

HILL RIVKINS & HAYDEN  
Attorneys for Plaintiff,

By:

A handwritten signature in dark ink, appearing to read "T. E. Willoughby", is written over a horizontal line.

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**SCHEDULE A**

Plaintiff's legal status and place of business:

UNIMET METAL SUPPLY, INC. is a corporation organized under the laws of one of the states of the United States with a principal place of business at 557 Main Street, Orange, New Jersey 07060.

Defendants' legal status and place of business:

EVERGREEN LINE is a corporation with a place of business at 1 Evertrust Plaza, Jersey City, New Jersey 07302.

Date of Shipment:	June 27, 2007
Port of Loading:	Valparaiso, Chile
Port of Discharge:	New York
Place of Delivery:	New York
Shipper:	Madeco S.A.
Consignee:	Unimet Metal Supply, Inc.
Notify:	Unimet Metal Supply, Inc.
Description of Shipment:	Copper Coils
Nature of Loss or Damage:	Water Damage
Bill of lading No.	EGLV732700054802